

TIFFANY & BOSCO
P.A.

**2525 EAST CAMELBACK ROAD
SUITE 300
PHOENIX, ARIZONA 85016
TELEPHONE: (602) 255-6000
FACSIMILE: (602) 255-0192**

Mark S. Bosco
State Bar No. 010167
Leonard J. McDonald
State Bar No. 014228
Attorneys for Movant

09-25729

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

IN RE:

Sayed J. Mirkazemi and Nema Mirkazemi

Debtors.

HSBC Bank USA, National Association, as Trustee
for ACE Securities Corp. Home Equity Loan Trust,
Series 2006-NC1

Movant,

vs.

Sayed J. Mirkazemi and Nema Mirkazemi, Debtors;
Dale Ulrich, Trustee.

Respondents.

No. 2:09-bk-22082-RTB

Chapter 7

**MOVANT'S MOTION TO LIFT
THE AUTOMATIC BANKRUPTCY STAY**

RE: Real Property Located at
9038 W Adam Ave
Peoria, AZ 85382

Movant hereby requests an order granting relief from the automatic stay of 11 U.S.C. 362(a), to permit Movant to foreclose the lien of its Deed of Trust on real property owned by Debtors by trustee's sale, judicial foreclosure proceedings or the exercise of the power of sale, and to obtain possession and control of the real property.

1 This motion is supported by the attached Memorandum of Points and Authorities, which is
2 incorporated herein by this reference.

3 DATED this 16th day of October, 2009.

4 Respectfully submitted,
5 TIFFANY & BOSCO, P.A.
6

7
8 BY /s/ MSB # 010167
9 Mark S. Bosco
Leonard J. McDonald
10 Attorney for Movant

11 MEMORANDUM OF POINTS AND AUTHORITIES

12 Sayed J. Mirkazemi and Nema Mirkazemi filed a voluntary petition for protection under Chapter 7
13 of the Bankruptcy Code. Dale Ulrich was appointed trustee of the bankruptcy estate. Debtors have an
14 interest in that certain real property located in Maricopa County, AZ, more particularly described as:

15 LOT 55, DEER VILLAGE UNIT 2, ACCORDING TO THE PLAT RECORDED IN BOOK 435
16 OF MAPS, PAGE 21, RECORDS OF MARICOPA COUNTY, ARIZONA.

17 Debtors executed a Note secured by a Deed of Trust, dated September 8, 2005, recorded in the
18 office of the Maricopa County Recorder's Office. A true copy of the Deed of Trust is annexed as Exhibit
19 "A", respectively, and made a part hereof by this reference. Further, Movant is the assignee of the Deed of
20 Trust. The assignment of record is annexed as Exhibit "B".

21 Debtors are in default on the obligations to Movant for which the property is security, and
22 payments are due under the Promissory Note from and after November 1, 2008.

23 Movant is informed and believes and therefore alleges that the Movant and the bankruptcy estate
24 are not adequately protected based upon the Debtors failure to make payments on a timely basis.

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1 Movant is informed and believes and therefore alleges that the Debtors and the bankruptcy estate
2 have no equity in the property. Pursuant to Debtors' Statement of Intentions the debtors intend on
3 surrendering the title and possession interest in the subject property. A true and correct copy of the
4 Debtors' Statement of Intention is attached hereto as Exhibit "C".

5 Further, Movant seeks relief for the purpose of foreclosing its Deed of Trust against the Debtor's
6 interest in the real property located at 9038 W Adam Ave Peoria, AZ. The Movant further seeks relief
7 in order to contact the Debtor by telephone or written correspondence regarding a potential Forbearance
8 Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss Mitigation
9 Agreement, and may enter into such agreement with Debtors.
10

11 CONCLUSION

12 Movant requests that the court enter an order vacating the automatic stay of 11 U.S.C. Section
13 362(a) as to the debtors, the bankruptcy estate, the property, and Movant; to allow Movant to foreclose the
14 lien of its Deed of Trust or Mortgage; to evict Debtors and/or successors of Debtors; and to obtain
15 ownership, possession and control of the Property.

16 DATED this 16th day of October, 2009.

17 TIFFANY & BOSCO, P.A.

18
19 By /s/ MSB # 010167
20 Mark S. Bosco
21 Leonard J. McDonald
22 2525 East Camelback Road, Suite 300
23 Phoenix, Arizona 85016
24 Attorneys for Movant
25
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